

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FILED
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U.S. DISTRICT COURT E.D.N.Y.

★ AUG 10 2009 ★

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C/M

GARY LA BARBERA, THOMAS GESUALDI,
LAWRENCE KULDA, LOUIS BISIGNANO,
ANTHONY PIROZZI, FRANK FINKEL,
JOSEPH FERRARA, SR., LYNN MOUREY,
MARC HERBST, and THOMAS PIALI,
Trustees and Fiduciaries of Local 282 Welfare,
Pension, Annuity, Job Training and Vacation
and Sick Leave Trust Funds,

x BROOKLYN OFFICE

MEMORANDUM AND ORDER
Case No. 07-CV-2791 (FB) (RER)

Plaintiffs,

-against-

TADCO CONSTRUCTION CORP.,

Defendant.

x

Appearance:

For the Plaintiffs:

AMIE RAVITZ HOGAN, ESQ.
Friedman & Wolf
1500 Broadway, Suite 2300
New York, NY 10036

BLOCK, Senior District Judge:

On May 4, 2009, Magistrate Judge Reyes issued a Report and Recommendation ("R&R") recommending that a default judgment be entered against defendant in the amount of \$238,133.21. *See* R&R at 11. The R&R also stated that failure to object within ten days would preclude appellate review. *See id.* at 12. Attorney for plaintiffs mailed a copy of the R&R to defendant on May 5, 2009; no objections have been filed.

If clear notice has been given of the consequences of failure to object, and there are no objections, the Court may adopt the R&R without *de novo* review. *See Mario*

v. P & C Food Mkts., Inc., 313 F.3d 758, 766 (2d Cir. 2002) (“Where parties receive clear notice of the consequences, failure timely to object to a magistrate’s report and recommendation operates as a waiver of further judicial review of the magistrate’s decision.”). The Court will excuse the failure to object and conduct *de novo* review if it appears that the magistrate judge may have committed plain error, *see Spence v. Superintendent, Great Meadow Corr. Facility*, 219 F.3d 162, 174 (2d Cir. 2000); no such error appears here. Accordingly, the Court adopts the R&R without *de novo* review and directs the Clerk to enter judgment in accordance with the R&R.

SO ORDERED.

L
s/FB

FREDERIC BLOCK
Senior United States District Judge

Brooklyn, New York
August 5, 2009